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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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In re PARMALAT SECURITIES LITIGATION

                                                    MASTER DOCKET
This document relates to: 07 Civ. 3790   04 MD 1653 (LAK)
- x

ORDER
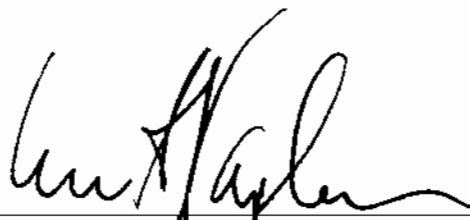
LEWIS A. KAPLAN, *District Judge.*

       The Bank of America ("BoA") defendants for a protective order (1) limiting the examination of two Bank Rule 30(b)(6) witnesses who will testify today in this case such that only counsel in this case may question them and limiting the use of that deposition to this case.

       Fact discovery in the MDL has been completed save for this case. All of the parties to the MDL had more than ample opportunity to examine BoA. I see no sufficient reason why they now should be given another bite at the apple by virtue of the fact that the plaintiff in this case filed later and therefore has a somewhat longer discovery period. In particular, the assertions by Dr. Bondi and Hartford that they were prevented from examining BoA during their coordinated discovery in the MDL about parts of the Due Diligence Policies and Procedures document by virtue of BoA's later-overruled invocation of privilege is frivolous in view of their failure to challenge the privilege claim,[1] as they had every right to do. On the other hand, I see no reason why any litigant should be foreclosed from using in other cases any admissions or other testimony given in the deposition of BoA in this case.

       Accordingly, the motion of the BoA defendants [04MD1653, docket item 1510, 07Civ. 3790, docket item 34] is granted to the extent that only counsel for parties to 07 Civ. 3790 may examine the two Rule 30(b)(6) witnesses and denied in all other respects. BoA's motion for leave to file a reply [04MD1653, docket item 1521, 07 Civ. 3790, docket item 41] is denied.

       SO ORDERED.

Dated: October 10, 2007

                                        Lewis A. Kaplan
                                    United States District Judge

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[1] The privilege claim ultimately was overruled after BoA inadvertently produced an unredacted copy of the document and sought its return.